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JUN - 1 2004

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JUN - 1 2004
OFFICE OF THE DIRECTOR
TC 3600

In re Application of	:	
Larry W. Bell et al.	:	DECISION ON PETITION
Application No. 09/373,038	:	TO WITHDRAW THE
Filed: August 12, 1999	:	HOLDING OF ABANDONMENT
For: SLED SYSTEM FOR MOUNTING	:	
PARKING BRAKE AND SHIFT ASSEMBLIES	:	

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on January 24, 2002. The delay in deciding this petition is regrettable

The petition is **DISMISSED**.

A review of the file record reveals that a non-final Office action was mailed to applicant on February 13, 2001. Since a response was not received, the application was held abandoned, and a Notice to that effect was mailed on September 21, 2001.

Petitioner states that the Office action was never received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of May 13, 2001. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Although the petition satisfied all of the requirements above relative to the mailing date of February 2, 2001 specified in the Notice of Abandonment, regrettably this date was incorrect and should have been February 13, 2001. Thus, the petition fails to meet the above requirements based on a mailing date of February 13, 2001. The Office sincerely apologizes for this oversight.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/mjz: 5/28/04